

Members of the Advisory Committee.

The Water Court faces two interesting issues. Your assistance with these issues is appreciated.

The first is establishing a procedure for adjudication of claims filed for Turtle Mountain Indian allotments. The United States has filed approximately 800 claims for water rights on lands allotted to members of the Turtle Mountain band of the Chippewa Indians.

These claims are for Indian reserved water rights that have not been incorporated into a Compact. Because they are not included in a Compact, they will be the first Indian reserved rights adjudicated by the Water Court. Statutes and rules applicable to the Water Court do not prescribe a complete process for adjudicating reserved rights. That means a process needs to be designed.

Attached to this email is an outline of a proposed process. Your comments on this proposal will be helpful to the Court.

The second issue pertains to a study of the adjudication prepared by the University of Montana law school. The UM study can be found on the Water Court web site. The link is: http://courts.mt.gov/portals/113/water/UM_WaterRightsStudy.pdf

The Water Policy Interim Committee is deliberating over the future of the Water Court. The UM study is a starting point for their deliberations.

Please review the UM study with the following questions in mind:

1. Are there problems with the adjudication or administration of water that are not identified in the UM study? If so, what are your solutions to those problems?
2. How would you rank the problems identified in the UM study? Which are the most and least important?
3. Would you offer alternative solutions to those proposed in the UM study? If so what alternatives would you propose?

You may have other questions or comments about the UM study beyond those identified above. Please feel free to add those to the conversation.

I would like to have a telephone conference at 10:00 am on either Sept 17, 21, or 24th to discuss these issues. Please advise regarding your availability on each these dates. I will select the date that works for the greatest number of committee members and send out conference call information once that date is set.

Thanks for your help.

Russ McElyea
Chief Water Judge